IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH

ORDER

Balwant through LRs Vs. Board of Revenue for Rajsthan Ajmer & Others
(SB Civil Writ Petition No.708/1993)

SB Civil Writ Petition under Article
226 & 227 of the Constitution of India.

Date of order: October 26, 2006.

PRESENT

HON'BLE MR. JUSTICE SHIV KUMAR SHARMA

Mr. R.K.Mathur, for the petitioners.

Mr. R.P.Kuldeep, Addl. Govt.Advocate for the State.

BY THE COURT:

Proceedings under section 91 of the Rajasthan Land Revenue Act,1956 (for short `LR Act') were initiated against late Devi Sahai, ancestor of the petitioners before Tehsildar Tizara. After examining the reply of Devi Sahai and inspecting the Tehsildar vide order dated October 31, 1963 held that possession of Devi Sahai over land bearing khasra No.30 measuring 15 bighas 9 biswas had been continuing before the commencement of the Rajasthan Zamindari & Biswedari Abolition Act and proceeding to that extent were dropped. This order was not assailed by filing appeal/ revision but after many years the Collector Alwar made reference under Section 82 of LR Act before the Board of Revenue and the Board vide judgment dated November 2, 1972 set aside the order dated October 31, 1963.

2. One Khubla S/o Maida thereafter committed trespass over land measuring 41 bighas 15 biswas and Tehsildar passed an order under section 212 of the Rajasthan Tenancy Act,1955 on August 14, 1970 to attach the said land. Khubla then moved application before Tehsildar stating therein that he was not in possession of the land but wife and sons of Devi Sahai had possession over the said land. Tehsildar dismissed the application on September 18, 1970. Smt. Soni, widow of Devi Sahai and her sons filed appeal against the order dated August 14, 1970 and September 18, 1970 of Tehsildar before Additional Collector, who passed an order that in the event of depositing a sum of Rs.250/- Smt.Soni and her sons would be entitled to cut the crop standing over the land. Smt.Soni and her sons filed appeal against the said order before the Revenue Appellate Authority Alwar, who allowed the appeal on December 30, 1983. Gram Pachayat Mundana (Panchayat Samiti Tizara District Alwar) filed revision before the Board of Revenue under section 84 of LR Act against the order dated December 30, 1983 of the RAA. The Board vide judgment dated June 10, 1992 allowed the revision. The review petition preferred against the said judgment was also dismissed on August 28, 1992. The petitioners in the instant writ petition have called in question the judgment dated June 10, 1992 and August 28, 1992.

3. It appears that in Misal Hakiyat 2029 Jamabandi 2035 and Mutation No.46 the land in dispute was entered in the name of petitioners, therefore, the State of Rajasthan filed a suit bearing No.89/1984 in the court of Sub Divisional Officer Kishangarh Bas Alwar on May 9, 1984 for correction of entries made in the revenue record.

4. I have heard rival submissions and scanned the record.

5. In my opinion, impugned judgments dated June 10, 1992 and August 28, 1992 are not sustainable on two reasons. Firstly Gram Panchayat Mundana was not the party before the Revenue Appellate Authority Alwar and it was not competent to file revision before the Board of Revenue. Only the State Government, that was the respondent before the RAA, could have assailed the order of RAA. Secondly since the petitioners were entered as Khatedar tenant of the land in dispute in the revenue record, and the suit for correction of entries filed in 1984 by the State Government was pending in the court of Sub Divisional Officer Kishangarhbas (Alwar), revision petition under section 84 of LR Act was not maintainable.

6. Resultantly, I allow the writ petition and set aside the impugned judgments dated June 10, 1992 and August 28, 1992 of the Board of Revenue. There shall be no order as to costs.

(Shiv Kumar Sharma)J.

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